

**AN ORDINANCE ESTABLISHING A TAX ON THE SALE OF PREPARED FOOD
IN THE TOWN OF CHARLOTTE COURT HOUSE**

Section 1 Definitions

The following words and phrases, when used in this article, shall have for the purposes of this article, the following respective meanings except where the context clearly indicates a different meaning:

Cater The furnishing of food, beverages, or both on the premises of another, for compensation.

Collector The treasurer or designee

Food All food, beverages or both, including alcoholic beverages purchased in or from a food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not, and without regard to the manner, time or place of service.

Food establishment Any place where food is prepared for service to the public on or off the premises, or any place where food is served, including but not limited to, restaurants, lunch rooms, short-order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private corporations, dining accommodations of public and private schools and colleges, mobile points of food service, such as push-cart operations, hot dog stands and similar operations, and grocery stores and convenience stores selling prepared food ready for human consumption at a delicatessen counter.

Meal Meal shall mean any prepared food and beverage as defined herein offered or held out for sale by a food establishment for the purpose of being consumed by any person to satisfy the appetite and which is ready for immediate consumption. All such food and beverages, unless otherwise specifically exempted or excluded herein shall be included, whether intended to be consumed on the seller's premises or elsewhere, whether designated as breakfast, lunch, snack, dinner, supper or by some other name, and without regard to the manner, time or place of service.

Section 2 Tax

There is hereby imposed and levied by the Town of Charlotte Court House ("the Town") on the purchaser of any meal sold in the Town, in or from a food establishment, whether prepared in such establishment or not and whether consumed on the premises or not, **a tax at the rate of five percent (5%) of the amount paid for the meal.**

Section 3 Collection of Tax by Seller

Every person receiving any payment for food and/or beverages with respect to which a tax is imposed and levied hereunder shall collect and remit the amount of tax imposed by this Ordinance from the person on whom the same is levied or from the person paying for such food and beverages at the time payment for such food is made; provided, however, no blind person operating a vending stand or other business enterprise under the jurisdiction of the department for the Visually Handicapped and located on property acquired and used by the United States for any military or naval purpose shall be required to collect or remit such taxes.

All amounts collected as taxes under this ordinance shall be deemed to be held in trust for the Town.

Section 4 Exemptions; Limits on Applications

A. The tax imposed under this article shall not be levied on factory-prepackaged candy, gum, nuts, or other items of essentially the same nature served for on or off premises consumption.

B. The tax imposed under this article shall not be levied on the following items when served exclusively for off-premises consumption:

1. Donuts, ice cream, crackers, nabs, chips, cookies and factory-prepackaged items of essentially the same nature.
2. Food sold in bulk. For the purposes of this provision, a bulk sale shall mean the sale of any item that would exceed the normal, customary and usual portion sold for on premises consumption (e.g. whole cake, a gallon of ice cream); a bulk sale shall not include any food or beverage that is catered or delivered by a food establishment for off-premises consumption.
3. Alcoholic and nonalcoholic beverages sold in factory sealed containers.
4. Any food or food product purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.
5. Any food or food product purchase for home consumption as defined in the federal Food Stamp Act of 1977, 7 U.S.C. §2012, as amended except hot food or hot products ready for immediate consumption. For the purposes of administering the tax levied hereunder, the following items whether or not purchased for immediate consumption are excluded from the said definition of food in the federal Food Stamp Act: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and non-factory sealed beverages. This subsection shall not affect provisions set forth in subparagraphs D. 3., 4., and 5. herein below.

C. A grocery store, supermarket or convenience store shall not be subject to the tax except for any portion or section therein designated as a delicatessen or designated for the sale of prepared food and beverages.

D. The tax imposed hereunder shall not be levied on the following purchase of food and beverages:

1. Food and beverages furnished by food establishments to employees as part of their compensation when no charge is made to the employee.
2. Food and beverages sold by day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees.
3. Food and beverages for use or consumption and which are paid for directly by the commonwealth, any political subdivision of the commonwealth or the United States.
4. Food and beverages furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm, handicapped, battered women, narcotic addicts or alcoholics, or other extended care facility to patients or residents thereof and the spouses and children of such persons.

5. Food and beverages furnished by a public or private nonprofit charitable organization or establishment or an establishment that contracts with the appropriate agency of the commonwealth to offer meals at concession prices to elderly, infirm, blind, handicapped or needy persons in their homes or at central locations.
6. Food and beverages sold on an occasional basis, (not exceeding three (3) times per calendar year), by a nonprofit educational, charitable or benevolent organization, church, or religious body as a fundraising activity, the gross proceeds of which are to be used by such organization exclusively for nonprofit educational, charitable, benevolent or religious purposes.
7. Food and beverages sold through vending machines.

Section 5 Gratuities and Services Charges

Where a purchaser provides a gratuity for an employee of a seller, and the amount of the gratuity is wholly in the discretion of the purchaser, the gratuity is not subject to the tax imposed by this article, whether paid in cash to the employee or added to the bill and charged to the purchasers account, provided in the latter case, the full amount of the gratuity is turned over to the employee by the seller.

Section 6 Report of Taxes Collected and Remittance by Seller

A. It shall be the duty of every person required by this article to pay to the Town the taxes imposed by this ordinance to make a report thereof setting forth such information as the treasurer may prescribe and require, including all purchases taxable under this ordinance, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this ordinance.

B. Every seller shall make the required report to the treasurer for each calendar month, on forms as prescribed by the treasurer, and shall be signed by the seller. Monthly reports shall be delivered to the treasurer **on or before the twentieth (20th) day of the calendar month** following the month being reported.

C. Each report shall be accompanied by a remittance of the amount of tax due, made payable to the Town of Charlotte Court House.

D. Failure to remit the tax due by the twentieth (20th) day of each month shall create a presumption that the responsible person has unlawfully converted the tax due to his own use and has committed larceny thereof.

E. Any such tax records shall be kept and preserved for a period of five (5) years. The treasurer or his duly authorized agents shall have the power to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this article, and to make transcripts of all or any parts thereof.

Section 7 Discount

For the purpose of encouraging timely submission of taxes imposed by this ordinance, each person required to collect such taxes and remit such to the Town shall be allowed a deduction of **two percent (2%)** of the amount of tax due, when said amount is paid on or before the date of payment as established in this ordinance.

Section 8 Penalties, Interest on Delinquent Taxes

If any responsible person shall fail or refuse to remit to the treasurer the tax required to be collected and paid under the provision of this ordinance within the time and in the amount required, there shall be added to such tax by the treasurer a penalty in the amount of ten (10) percent thereof, and interest thereof at the rate of ten (10) percent per annum which shall be computed upon the taxes and penalty from the date such taxes are due and payable.

Section 9 Penalty for Violation of Article

A. Any person willfully failing or refusing to file a return as required under this ordinance shall, upon conviction thereof, be guilty of a class 1 misdemeanor except that any person failing to file such a return shall be guilty of a class 3 misdemeanor if the amount of tax lawfully assessed in connection with the return is one thousand dollars (\$1,000.00) or less. Any person violating or failing to comply with any other provision of this article shall be guilty of a class 1 misdemeanor.

B. Except as provided in subsection A. above, any corporate or partnership officer, as defined in the Code of Virginia 58.1-3906, or any other person required to collect, account for, or pay over the meals tax imposed under this ordinance, who willfully fails to collect or truthfully account for or pay over such tax, or who willfully evades or attempts to evade such tax or payment thereof, shall, in addition to any other penalties imposed by law, be guilty of a class 1 misdemeanor.

C. Each violation of or failure to comply with this article shall constitute a separate offense. Conviction of any such violation shall not relieve any person from the payment, collection or remittance of the tax as provided in this ordinance.

Section 10 Enforcement

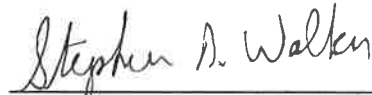
A. If any responsible person shall fail or refuse to collect the tax imposed by the provisions of this article and to make payment within the time required according to the reports and remittances required by this ordinance, the treasurer shall proceed in such manner as may be deemed best to obtain the facts and information on which to base his estimate of the tax due. As soon as the treasurer procures such facts and information as he is able to obtain upon which to base the assessment of any tax payment by any person who shall fail or refuse to collect such tax and to make such report and remittance, he shall proceed to determine and assess against such responsible person such tax and penalty and interest provided by this ordinance and shall notify such responsible person by registered mail sent to his last known place of address of the amount of such tax and penalty and interest, and the total amount thereof shall be payable within ten (10) days from the date of such notice. The treasurer shall have the power to examine such records for the purpose of administering and enforcing the provisions of this section.

B. If any responsible person fails to comply with this ordinance or any provision of it, the treasurer may terminate the business license issued by the Town of Charlotte Court House, may require the responsible person to place a deposit with the treasurer equal to the greater of one thousand dollars (\$1000.00) or the equivalent of one (1) month's tax imposed under this ordinance. Said deposit is to serve as security for the payment of future taxes due hereunder.

Adopted this 18th day of June, 2009.

Andrews	<u>ABSENT</u>
Dunn	<u>NAY</u>
Dunn-Miller	<u>AYE</u>

Hamlett	<u>AYE</u>
Johnson	<u>AYE</u>
Watkins	<u>AYE</u>



Stephen D. Walker, Mayor

ATTEST:


Karen K. Price, Clerk of Council

TOWN OF CHARLOTTE COURT HOUSE
P.O. BOX 246
CHARLOTTE COURT HOUSE, VIRGINIA 23923

**WORKSHEET FOR REPORTING
TAX ON SALE OF PREPARED FOOD (MEALS TAX)**

Please fill in the required information and submit this form with your payment.

The "Meals Tax" is due and payable to the Town of Charlotte Court House by the 20th of each month. Payments received after the 20th of the month will be assessed a 10% per annum late penalty, plus interest in the amount of .00274% per day.

Report for the Month of: _____, _____
Month Year

Seller's name: _____

Address: _____

Telephone #: _____

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| 1. Gross sales of "meals" sold during month: | \$ _____ |
| 2. Meals Tax due (multiply gross sales by 5%) | \$ _____ |
| 3. Discount of 2% for payment made on or before the due date (subtract from "meals tax due"). | \$ _____ |
| 4. Total Due (if paid by due date): | \$ _____ |
| 5. Penalty (10% of meals tax due – to be included with payment if submitted after the 20 th of the month) | \$ _____ |
| 6. Interest (.000274% per day on Meals Tax + Penalty) | \$ _____ |
| 7. Total Due if paid after due date (add lines 4, 5, & 6) | \$ _____ |
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Signature

Date

Printed Name